ORDER SHEET <u>THE HIGH COURT OF SINDH, AT KARACHI</u> CP No.S-411 of 2020 [Muhammad Ilyas Khan v. Muhammad Arif]

Date Order with signature(s) of Judge(s)

Hearing of case [priority]

1. For hearing of CMA No.2105 of 2020

2. For hearing of main case

26.04.2021

Mr. Javed Haleem, Advocate for the petitioner Mr. Muhammad Hanif, Advocate for respondents No.1 to 3 a/w Ms. Zakia Hanif, Advocate

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Heard learned counsel and perused the material available on record.

An eviction application u/s 15 of SRPO, 1979 was filed on the ground of default and personal bonafide requirement. The case was contested and evidence was recorded. The eviction was allowed on the ground of personal requirement only whereas ground of default was declined by the rent controller. The petitioner filed the appeal before Addl. District Judge, Central which concurred with the view of the rent controller, hence, the petitioner being tenant has filed this petition.

It is the case of the petitioner that the case of personal bonafide need was not made out in the application as the premises is claimed to be required by three individuals having their respective share in the property.

In para 5, the applicants pleaded that they need premises for their personal bonaifde need in good faith. These pleadings were supported by affidavit of one of the applicants viz. Muhammad Arif who was also the attorney of respondents No.2&3.

The case of personal requirement is in para 7 of the affidavit of evidence. Copies of sale deed were also annexed alongwith affidavit in evidence. It is the case of the petitioner that the respondent had not paid taxes of the entire building while the sale deed was registered and that the full stamp duty on the registration of the sale deed was not paid. The petitioners were tenants of the previous owner and the present set of respondents entered into the steps of their predecessor/previous owner. It is immaterial for a tenant to challenge the payment of taxes as well as stamp duty. It does not lie into the mouth of the petitioner to challenge the title on the strength of non payment of stamp duty. No material questions were put to the witness who appeared on behalf of the applicant/landlord, as far as personal requirement is concerned.

There is no material in the cross examination to interfere in the concurrent findings of the two courts below and hence the petition was dismissed in the short order and these are the reasons for the same.

JUDGE

Mush/ps